

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

REX CHAPPELL,

Plaintiff, No. 2:01-cv-01979 KJN P

vs.

SAM BESS, et al.,

Defendants. ORDER

Plaintiff is a state prisoner proceeding with a civil rights action filed pursuant to 42 U.S.C. § 1983. Presently pending before the court is the joint motion of plaintiff's appointed co-counsel, Joel Liberson and Philip Allingham, to withdraw their representation of plaintiff, currently scheduled for hearing on April 28, 2011. Also pending is counsels' motion for an order shortening time to hear this matter, and the application of Liberson to appear telephonically at the hearing.

Plaintiff requires sufficient opportunity to respond to counsels' motion to withdraw. The matter will therefore remain scheduled for hearing on April 28, 2011, pending further briefing. Plaintiff shall file a response to the motion, addressing whether he consents to the proposed withdrawal and, if not, why; in addition, plaintiff shall address whether he requests appointment of alternate counsel should current counsels' motion be granted. Plaintiff is

1 reminded that district courts lack authority to require counsel to represent indigent prisoners in
2 Section 1983 cases, Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989), but may
3 request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1), in exceptional
4 circumstances. Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright,
5 900 F.2d 1332, 1335-36 (9th Cir. 1990). Counsel will be permitted the opportunity to file a
6 reply. The court will thereafter evaluate whether to reschedule the hearing on this matter, and the
7 merits of Liberson's request to appear telephonically.

Accordingly, IT IS HEREBY ORDERED that:

9 1. Plaintiff shall file and serve, within fourteen (14) days after the filing date of
10 this order, a response to counsels' motion;

11 2. Plaintiff's counsel may file and serve, within seven (7) days after service of
12 plaintiff's response, a reply; and

13 3. The hearing on this matter shall remain scheduled for April 28, 2011, at 10:00
14 a.m., in Courtroom No. 25, pending further order of this court.

SO ORDERED.

16 || DATED: March 31, 2011

Kendall J. Newman
KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

mtn.wthdrw.